

Petitioner/ Plaintiff's filed another Appeal and "Motion To Object to Parts Of Both Orders, L.T. Feb 12,2004 pertaining to Judge Langham and the L.T. Feb.18,2004 pertaining to the other defendants. The First District court of appeals February 24,2004 order; Appellant has filed a notice of appeal in the lower tribunal without the entry the entry.....

In response to Petitioner/Plaintiff's Appeal of the L.T/ February 12,2004order, the Appellee / Defendant A. Attorney. General sent a March 18,2004 "Motion For Sanctions" (SLAPP suit F.S 2002, .768.295) with a 21 day notice Fla. Stat.ss 57.105(4) before filing in L.T. Appellee/ Defendant A. Attorney. General filed a March 11,2004 motion in the Circuit Court; "Defendant Judge David Langham's Motion to Strike Amended Complaint, or..Dismiss.; Motica to Strike Plaintiff's "Motion To Object to Parts Of Both Orders From Judge Michael Jones

First District court of appeals April 8,2004 order; Appellant's motion to reverse dismissal order and response to the court's order of January 26,2004, are collectively treated as a order to reinstate the appeal, and are denied. In the event the lower tribunal has now entered an appealable order in the proceedings below, appellant may seek review of any such order by filing a timely notice of appeal directed thereto. The Petitioner paid the Docket fee for the 2nd Appeal and filed a timely enlarged initial brief and motion.. The appellee/ Assistant State Attorney General Phillip Quaschnick filed several responses in the District court of Appeal that was used in the L.T. by the Appellee Defendant Lanham against the petitioner . Both Courts adopted the Assistant State Attorney General's/A.G. Charles Crist claims and the circuit judge Jones dismissed all direct evidence it appears in the case at the hearing on 4/8/2004. Defendant Judge Langham's L.T. Circuit Court April 15,2004 motion,Notice of withdraw of.....Motion To Strike Amended Complaint... Defendant/Senior A.A.G. Bowden,III entered aApril 9,2004 ,unsigned motion in L.T "Joint Stipulation Between... The Petitioner motioned the-Bias circuit judge Jones to remove himself from the case and motioned for [ss15.13] motion to reopen the case (omitted

evidence) with the remaining four defendants (Escambia School District, Escambia Charter School , AmStaff, Liberty Mutual) with a new judge. The Escambia circuit judge Jones refused ,denying the Petitioner's motions. Petitioner motion to removed the case with the above 4 defendants and filed a Federal civil complaint (Aug.19,2004), the Escambia Federal court judge refused/denied (no summons)the case; the Federal court based all its claims on incorrect information, that the school was a private school. Therefore , the Petitioner appealed the case to the U.S District court of appeal, 11th circuit. The First

District court of Appeal made an incorrect claim after the 70th day that the Respondent OJCC David Langham was not dismissed, First District court of appeals April 30,2004 order: Upon the Court's own motion, Appellant shall show cause within 10 days from the date of this order why this appeal should not be dismissed because the order being appealed merely grants a motion to dismiss and does not actually dismiss the case. See Fla. R App.P. 9.110(m):Benton v. Moore,655 So. 2d 1272,1273 (Fla. 1st DCA 1995)

The District court of Appeal claim was based on a response by the Assistant State Attorney General, Phillip Quaschnick. The Assistant State Attorney General Phillip Quaschnick made several incorrect claims (responses) that the First District court of Appeal adopted and filed several orders based on the incorrect.

First District court of appeals May 25,2004 order; Appellant's motion filed May,6 2004 seeking leave to file an initial brief which exceeds the page limit, is denied. An amended initial brief, not to exceed 50 pages, shall be served within 20 days of the date of this order. The Amended initial brief shall cite to the record on appeal for the statements of fact. Williams v. Winn-Dixie Stores,348 So. 2d 829 (Fla. 1st DCA 1989). References to factual matters outside the record on appeal shall be omitted from the amended initial brief.

Thornber v. City of fort Walton Beach,534 So. 2d 754 (Fla. 1st DCA 1988). Failure to timely comply with this order may result in dismissal of this appeal without further opportunity to be heard. Fla. Fla R App. P 9.410 .

First District court of appeals June 16,2004 order; Having considered the appellant's response to this order of April 30,2004, as well as the appellee's reply and the appellant's reply thereto, the show cause order is hereby discharged. See Fla. R. App P. 9.110(l). The order entered on May 10,2004 resolved the juridical defect in the order as originally appealed. This appeal shall proceed from the amended Order Granting Defendant Judge Langham's Motion to Dismiss Amended Complaint with Prejudice and Denying Motion for Attorney Fees, filed on May 10,2004.

First District court of appeals August 10,2004 order; The appellant has filed a motion titled "Appellant Motion to Object to the District Court of Appeal's June 16,2004 order. This court Does not have the jurisdiction to change the events in the lower tribunal and deny the Appellant's Appeal of the L.T. Original Feb. order. This court's findings are incorrect, the appellant did not respond to a defect and the appellant objected to the L.T. Amended Feb. 4 order filed on May 10, 2004, which was filed with the court on June 25,2004, In this motion, the appellant appears to seek clarification and/or rehearing of this Court's June 16, 2004 order. To the extent that this motion seeks clarification, the motion is Granted, for all other purposes the motion is denied.

First District court of appeals December 21,2004 order; Not having received a response to this court's order of May 25, requiring appellant to serve an amended initial brief, the above-styled cause is hereby dismissed.

The Supreme Court of Florida February 18, 2005 order; Petitioner's " Response to the supreme Court of Florida's Incorrect Treatment; The above order has been treated as a Petition for Writ of Mandamus; The petitioner Michael McWilliams Petition for Writ of Certiorara" has been treated as a motion for rehearing of this Court's order dated February

1,2005 and said motion is hear by denied. Petitioner is allowed to and including March 14,2005,in which to file a proper petition in accordance with this Court's order Dated February 1,2005.

The petitioner's petition for writ of certiorari mailed Febuary 19,2005. The Supreme Court of Florida May 4,05; The petition for writ of certiorari is dismissed for lack of jurisdiction. See Art.V,Sect.3(b),Fla. Const. To the extent that the petition may be construed as seeking a writ of mandamus, it is dismissed for failure to state a claim upon which mandamus relief may be granted. The Supreme Court of Florida May 25,2005 response to petitioner's pleading entitled Ojection to the Supreme Court of Florida 5/4/05 order; the petition for writ of certiorari is dismissed for lack of jurisdiction. Petitioner's motion to Appeal the case to the U.S. Supreme Court filed with this court May 15.2005. The Appropriate court to review a decision is the U.S. Supreme Court..... The Petitioner's Writ of Certiorari is being timely filed with rule13.1 , 13.5 and rule 30 due date September 30,2005 .This Court has Jurisdiction pursuant to 28 U.S.C.ss 1746 or 28 U.S.C. ss 1651

III. CONSTITUTIONAL AND STUTORY PROVISIONS INVOLVED OR STATUTES AND RULES

This case raises questions concerning violation of the Federal and Florida State laws pertaining to civil rights and Due process. The First Amendment and 14 amendment of the United States Constitution and the s.5. Art.1 of the Florida State constitution allow citizens to "petition the government for redress of grievances". The case was a civil complaint for punitive damages (Fla. Statute 768.72).

Section. 768.295 Strategic lawsuits against public participation (SLAPP) suits by government entities prohibited. (2) "It is the intent of the legislature to protect the rights of Florida's citizens to exercise their rights to peacefully assemble, instruct their representatives, and petition for redress of grievances

before the various governmental entities of this state as protected by the First United States Constitution and s.5. Art.1 of the State constitution. The legislatures....state that government entities not engage in "SLAPP".....(3) As used in this section , "governmental entities" or.....including....and the judicial branches.....(4) No governmental entity in this state shall file or cause to be filed.....(5) A person or entity in sued by a governmental entity in violation of this section has a right to an expeditious resolution.....

Amendment I (THE ESTABLISHMENT OF RELIGION; FREEDOM OF RELIGION, SPEECH, PRESS, ASSEMBLY, PETITION) Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances" – The U.S. Constitution.

FOURTEENTH AMENDMENT: RIGHTS GUARANTEE, PRIVILEGES AND IMMUNITIES OF CITIZENSHIP,DUE PROCESS AND EQUAL PROTECTION,

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the united States; nor shall any State deprive any person of life, liberty, or property, without due process of law, nor deny to any person within jurisdiction the equal protection of the law.

Florida State rule 1.420 Not good Cause. The failure of legal counsel to act in a timely fashion, Rubenstein V. Iolab Corp., 642 So. 2d 818,820 (Fla.3d DCA 1994).parties ignorance of a duty to prosecute or means by which to do so;Pearson v. Pefkarou, M.D.,734 So.2d 551 Florida 3 DCA 1999);

Houswerth v. Sheriff's Dept., 567 So.2d 476 (Fla. 5th DCA 1990). Lension v. Calohan, 652 So.2d 461, 463 (Fla 1st DCA 1995) ("The case do not draw a bright line") physical disability.

2003 Florida statutes Section 768.72, (1) "In any civil action, no claim for punitive damages shall be permitted unless there is a reasonable showing by evidence in the record or proffered by the claimant. Fla.S. 768.72 [2] (a) " Intentional Misconduct" mean that the defendant had actual knowledge of the wrongfulness of the conduct and the high probability that injury or damage to the claimant would result and, despite that knowledge, intentionally pursued that course of conduct, resulting in injury or damage.3 Fla. S. 768.72 [2](b) "Gross negligence" means that the defendant's conduct was so reckless or wanting in care that it constituted conscious disregard or indifference to the life, safety, or rights of persons exposed to such conduct.4. Fla. S. 768.72 (3) In the case of an employer, principal, corporation, or other legal entity, punitive damages may be imposed for the conduct of an employee or agent only if the conduct of the employee or agent meets the criteria specified in subsection (2) and (a), (b), (c)The employer, principal, corporation, or other legal entity actively and knowingly participated in such conduct;The officers, director, or managers of the employer, principal, corporation, or legal entity knowingly condoned, ratified, or consented to such conduct; or(a)The employer, principal, corporation, or other legal entity engaged in conduct that constituted gross negligence and that contributed to the loss, damage, or injury suffered by the claimant.

Fla. Section 768.28 " condition precedent to maintaining an action... and shall not effect the date on which the cause of action accrues ." Section 768.28(6)(b) pursuant to paragraph (a)Fla.

Stat.,(2003).Fla.Stat.ss768.28 ((0 9a) No Officer, employee, or agent of the State or any of its subdivisions shall be held personally liable in tort or named as a party defendant in any action for any injury or damage suffered as a result of any act,

event or omission of action in the scope of her or his employment or function, **unless such officer, employee ,or agent acted in bad faith** .However, such officer, employee, or agent shall be considered an adverse witness in a tort action.... The State or its subdivisions shall not be liable in tort for acts or omissions of an officer, employee, or agent committed while acting outside the course and scope of her or his employment or committed in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property (b)

11th Amendment: "Tort Action Against State Officials.—In Tindal v. Wesley,\130\ the court adopted the rule of the United States v. Lee,\131\ a tort suit against federal official officials, to permit a tort action against State officials to recover.... The immunity of the State from suit has long been held not to extent to action against state officials for damages arising out of willful and negligent disregard of state law.\132 The reach of the rule is evident in Scheuer v. Rhodes,\133\ in which the court held that the Plaintiffs were not barred by the 11th Amendment or other immunity Doctrines from suing the governor and other state officials of a state alleging that they deprived damages, when it was clear that Plaintiffs were seeking to impose individual and personal liability on the officials. There is no "executive immunity" from suit, the court held, rather".....

MOTION TO HAVE AN EVIDENTIARY HEARING; FINDINGS OF FACT, (Fla. rule 1.420 [7],[b]before the judge dismissed the defendants .

Florida Statutes 2004 Title X 120.68 judicial review. 120.68 (1) "A party who is adversely affected by final agency action is entitled to judicial review. A preliminary, procedural, or intermediate order...or ...administrative law judge....is immediately review able if review of the final agency decision would not provide an adequate remedy". Fla.120.68(7)(c) The

Fairness of a proceeding ... "failure to follow prescribed procedure"(d)The agency has erroneously interpreted a provision of law.... (e) the agency's exercise of discretion was :1.outside the range of discretion delegated to the agency by law; 2.inconsistent with agency rule;3.inconsistent with the official stated agency policy or prior practice, if deviation therefrom is not explained by the agency; 4.Otherwise in violation of a constitutional or statutory provision; but the court shall not substitute its judgment for the agency on an issue of discretion.

See Fla. Rapp.P 9.100 (b) The original jurisdiction of the court shall be invoked by filing a petition, accompanied by a filing fee..... or by rule 9.030(a)(5)pass upon a question certified to be of great public importance(6),(c)

28 CFR CH. I(7-1-04 edition) ss18.10 Rehearing. (a) "Any appellant dissatisfied with a final agency decision under ss18.9 may, within 30 days after the notice of the final agency decision is sent, request a responsible agency to re-review".....

(b) If the responsible agency official finds that the appellant has:
(1)Presented evidence or arguments which is sufficiently significant to require the conduct of further proceedings; or
(2) "Shown some defect in the conduct of the initial hearing sufficient to cause substantial unfairness or erroneous finding....."

Fla Stat.ss 440.02(36) claimant's(teacher) injuries "arise out of" work performed within the course and scope of employment was the major contributing cause of injuries.

Fla Stat.ss 440.09 claimant's proved his injuries within medical certainty by objective findings (Doctor's Depo)

Fla Stat.ss 440.02(32) Requires claimant to prove a causal link between an employee's actual work function and the injury "the work perform" must be the " major contributing cause" of the injury.

Due process, Amend.14, ss1, note 1022. Inferences. "A statute, creating an inference that is given effect of evidence to be weighed against the opposing testimony, violate this clause if created by a state statute and due process clause of Amend. 5..... Internal revenue v. Bian Peanut Co.....;

Florida Statutes 440.25 (e) order shall set forth the findings of ultimate facts and mandates.

2002 Florida statutues TitleXVIII,K-20 Educational code Chapter 1002;1002.33 Charter Schools--

- (1) Authorization.-- Charter Schools shall be part of the state's program of public education. All charter schools in Florida are public schools. A charter school may be formed..... A public school may not use the term charter in its name unless it has been approved under this section.
- (5) Sponsor.—(a) A District school board may sponsor a charter school...
(c) The sponsor shall monitor and review....
(b) The sponsor shall monitor the revenue...
(g)) The sponsor shall ensure.....State education goals establish by s. 1000.03(5)

IV. STATEMENT OF THE CASE

The Petitioner's/Plaintiff reme~~d~~ to a conspiracy or to the 5 defendants acting in bad faith and legal shams, kangaroo court (unemployment, Worker's comp and appeal process) that violated the Plaintiff's federal and Florida State civil rights and due process to receive a fair hearing with equal protection of the law , was the Petitioner's Sept. 23,2003 civil complaint in the Circuit court. Petitioner's civil complaint demanded a trial by jury for punitive damages based on the ultimate facts from both hearings, removed ,denied or blocked evidence , the defendants negligence or lies or conspiracy and newly discovered evidence, like several witnesses (X-teachers, Student, Principal) testimony in the local paper ,a Bias investigation in July by co-employer AmStaff and a federal investigation 10/03. The investigation came nine months after I

was injured and after Petitioner's hearings, another teacher attack, that are not mentioned in AmStaffs Investigation. Both investigations claimed no laws were broken but both changed there stories later to protect or favor themselves.

The Petitioner /Plaintiff's civil complaint was 6 pages, all the defendants claimed Petitioner /Plaintiff's was appealing a unemployment or Worker's comp appeal that they were not involved in or the Plaintiff's injury. The Petitioner /Plaintiff's memorandum of law and amended civil complaint was 44 pages and 2nd amended civil complaint was 55 pages listing several causes of action against the Defendants in pursuant of 768.72 for punitive damages with supporting evidence in the record and evidence under the current laws pertaining to the defendants negligence that the circuit court ignored.

The petitioner is the appellant/claimant in a worker's compensation claim, Section 440.02(36), seeking benefits or award for compensability, temporary partial disability benefits and future medical treatment for a neck injury cause by an ECS student jumping/attacking the petitioner (teacher) from behind with out warning in class. . The JCC David Langham June 13,2003 order denied or deprived petitioner/Appellant benefits, stating petitioner injured himself removing the student from his back. The June 13,2003 order entered by JCC David Langham was in bad faith, it was not based on the ultimate facts in the record or required by law, Florida Statutes 440.25 (e) "order shall set forth the findings of ultimate facts and mandates". The Judge David Langham asked each attorney to right a final order. Judge David Langham Favored, ratified, and adopted Amstaff and Liberty Mutual attorney's Mr. Magie's final order that was not based on the ultimate facts in the record required by law.

How can Three letters from AmStaff/Liberty/Escambia Charter School be used as evidence to cancel Petitioner/Appellant/claimant's benefits on Nov. 4,2002, after the fact

when Judge David Langham and the Florida court system failed or refused to review those letters as well as the other documents (dismissed evidence). The petitioner/ Claimant was hit and threatened three times, on three different days (Oct.24,25,29) by the Student attacker David Thompson. David Thompson was not expelled he threaten me again on Oct 29. On Oct. 24,2002. X teacher Mr. Augustine witness the student David Thompson hit the Petitioner at lunch. Mr. Augustine did not witness the Oct.25 attack, that injured the Petitioner/ Claimant in his 7th period class. Judge David Langham failed to review the testimony and record, he confuses the facts and lump all three incidences into one day of his June 13,order to deny the Petitioner/Claimant Worker's comp benefits basically stating the petitioner McWilliams lied and injured himself. All evidence proffered.

Judge David Langham makes a bias claim against the Petitioner/claimant in his June 13,2003 final order that are "outside the range of discretion delegated to the agency by law;" The JCC portrays the petitioner /claimant in a bad light. Judge Langham: "I accept that David Thompson and Mr. Godwin's account of this is the more credible and believable. Claimant's attempt"..... The undisputed record /transcript shows David Thompson admitted jumping the Petitioner/ Appellant from behind without warning in class.

The JCC accepts the roll reversal claims by the Escambia Charter School/co-employer AmStaff and their defense witnesses as fact, Students Good, Teacher bad. David Thompson testified he was kicked out of school around 100 times for assault and battery and two weapon charges.

Petitioner was involved in a hostile environment at the Escambia Charter School (guns ,threats, Harassment)and was attacked from behind " with out warning" in class by a student, ultimate fact . In self-defense, McWilliams restrain the student attacker with a wrestling hold without harm to the student. The Judge David langham claimed he believed the student story; the student claimed the Petitioner did not defend himself with a

wrestling move, I (student) just jumped off, but the Judge langham reverses his statement to claim the petitioner injured himself removing the student from his back. That claim is outside 440 statutes. X teacher Anne Broxon testified that she was a witness to the hostile environment at the E.C. School and claimed students threatened to kill her. The court system has ignored the obvious facts including the doctor's deposition. The Petitioner/Appellant went through 4 weeks of physical therapy after he was injured (Petitioner's Doctor's prescription). Respondent's Worker's comp doctor stated the Petitioner/appellant/claimant was injured and need a MRI . The Doctors did not canceled the Petitioner Worker's comp. The Respondents /Co-employer Esacambia Charter School principal Mr. Chisolm, it appears cancel the Worker's compensation in retaliation after one Doctor's appointment when the petitioner called off sick on Nov.4,2002 to go to his 2nd W-comp Doctor's appointment. The Principal made a false statement accusing Petitioner/ Appellant of "horseplay". The claim was based on the Students word/ statement a week or more after the attack. The ECS principal failed and refused to file an accident report of the attack (Fed.law) based on the Petitioner's statements a week earlier, as required by law. The District court of appeal, First District has issued an Opinion February 8,2005 "per curiam affirming" the June 13,2003 order entered by OJCC David Langham. The District Court of appeal's affirmed the lower tribunal June 13,2003 order that violated the rules in pursuant to 440.02(36), 440.09,440.25(e) and petitioner's civil rights.

The Petitioner Filed an Appeal to the Florida Supreme court . The Florida Supreme Court order March 10,2005 claimed it is without jurisdiction, petition for review is hereby dismissed. See Jenkins v. State, 385 So. 2d 1356(Fla.1980). No Motion for rehearing will be entertained by the court. The Florida Supreme Court's. April 26,2005 order writ of certiorari is treated as a rehearing, rehearing is hereby stricken as unauthorized The worker's comp case is pending in The Supreme Court of the United States.

In summary, the Petitioner civil complaint for Punitive damage 768.72 against the worker's comp judge and demand for a trial by jury was ignored or refused or not addressed by the circuit court judge Michael Jones. The circuit court judge Michael Jones adopted all the Defendants/ Fls. A.A.G. Phillip Quaschnick incorrect Claims, delay tactics , strategies to confuse the issues and the clerks errors.. . The Circuit clerk prematurely filed an appeal based on Petitioner/ Appellant motion after the first hearing ,confusing all issues it appears under direction of Defendants/ A.A.G. Phillip Quaschnick , (Defense strategy to claim the Plaintiff was confused) who just called the Plaintiff by phone the day before in Pennsylvania. The First District Court of appeals filed three orders the next day, that the Petitioner/ Appellant could not completely respond to because he never receive a sign order from the judge or ..A.G Quaschnick who wrote the order. After the 2nd hearing, The circuit court judge Michael Jones erred Dismissed the Florida Worker's comp Judge David Langham with prejudice by order on February 12,2004 base on his claim he has absolute immunity. State officials do not have immunity in pursuant to 768.28 or the 11th amendment if they acted in bad faith. The circuit court judge erred again, he dismissed the other defendants/ Amended complaint without prejudice by order on February 16, 2004. The court claimed the amended complaint failed to show an actionable claim and the amended complaints allege negligence and misconduct was in the domain of workers' comp statutes . "The Appellate court, and not in this court, is the proper forum to appeal and discussion of all issues relating to or in conjunction with those administrative action." . The civil complaint was not an appeal, it was for punitive damage 768.72 72 [2] (a) " Intentional Misconduct"](b) "Gross negligence" (3) In the case of an employer, principal, corporation, or other legal entity, punitive damages may be imposed for the conduct of an employee or agent only if the conduct of the employee or agent meets the criteria specified in subsection (2) and (a), (b), (c) (a)The employer, principal, corporation, or other legal entity actively and knowingly participated in such conduct; legal entity

knowingly condoned, ratified, or consented to such conduct; or engaged in conduct that constituted gross negligence and that contributed to the loss, damage, or injury suffered by the claimant.. The circuit court judge erred, he fails to find that the Florida court system and other defendants deprived the Petitioner of a fair hearing in those administrative action. The Workers' comp judge Langham decision or the agency's exercise of discretion was :1.outside the range of discretion delegated to the agency by law; 2.inconsistent with agency rule; The Petitioner/Plaintiff objected to both orders and Appeal the Feb.12 order pertaining to judge Langham. The Circuit Judge claims Petitioner's claims were frivolous but he never mention or explain which claims were frivolous so all claims remained in the civil complaint and all evidence is proffered. The Circuit Judge did not allow arguments against the Workers' comp judge Langham.. The Judge's claim was based on half the law and have the truth. The Judge does not have immunity if he acted in bad faith or if he was negligent or involved in a conspiracy Ninty Five percent of the evidence was in the record when Petitioner filed the civil complaint in September. The cause of action was stated with evidence to support Petitioner. The evidence established the cause of action, but it was dismissed or omitted by the circuit judge. The Respondent proceeded to file an incorrect SLAPP suit with 21 day Notice and incorrect motions in the L.T. after he was dismissed with prejudice, he also participated in the 3rd L.T.hearing, The Petitioner filed a timely enlarged brief with motion "as is" in the First District court of Appeal. The Respondent/A.A.G filed several incorrect responses in the First District court of Appeal. The First District court of Appeal adopted the Respondents/A..A.G. incorrect claims and filed several incorrect orders that the Petitioner Objected too. The District court of appeals, First District findings and order and December 21,2004 order Dismissing the case were incorrect or out of sequence with there other orders which they failed to explain.

The First District court of Appeals has filed several orders that are incorrect or incomplete based on the Defendants OJCC attorney State Rep. A.A.G. Phillip Quaschnick's incorrect responses 70 day after the appeal and after Appellant filed a timely enlarge brief with motion "as is" .. Appellee claimed he was not dismissed, the case was, we must start the appeal over from the May 10 2004 Amended Feb.12,2004 Order. The First District court of Appeals fail to make findings in the record or complaint. The co conspirator ,Defendants, cicut Judge Jones aid the Workers' comp/A.A.G. Quaschnick claims in his responses

The Supreme Court of Florida 5/4/05; The petition for writ of certiorari is dismissed for lack of jurisdiction. See Art.V,Sect.3(b),Fla. Const. To the extent that the petition may be construed as seeking a writ of mandamus, it is dismissed for failure to state a claim upon which mandamus relief may be granted. All the Supreme Court of Florida orders tried to manipulate or directed petitioner to file a writ of mandamus, based on the another Clerks appeal for the Petitioner that was based on a response by the Respondent/ A.A.G. Mr. Quaschnick defense strategy, it appears. The Supreme Court of Florida ignored he petitioner, petition for writ of certiorari, on February 19,2005. This Court has Jurisdiction pursuant to 28 U.S.C.ss 1746

V. REASON FOR GRANTING THE PETITIONS

There is no Check and balance system in the legal system or self policing, it appears. Each Florida Judge or court blindly adopts the others findings or Supports the power struggle in the community or State that can be construed to be a conspiracy to deny a person his civil rights or due process and equal protection under the Law. Therefore, We the People/ citizens only remedy to hold the Florida State Enitities or there agents accountable for acting in bad faith with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property or misconduct or negligence is to

seek legal action, like a case for punitive damages to stop the abuse of power in the legal system or community or State. No court (Federal or Florida State) has allowed the Petitioner redress of grievances with equal protection of the law. *Cantwell v. Connecticut*, 310 U. S. 296(1940), the U.S. court ruled that the First amendment guarantees preclude not just "congress" (the federal government) but also local authorities (State and Municipal) from passing laws that would unconstitutional infringements on First amendment rights. The court system is using there gatekeeping authority to ignoring the laws and "ultimate facts and substitute their opinions as evidence to deprive the Petitioner a fair hearing or trial by jury. The circuit court Judge dismissed all the Petitioners evidence in the record that established a cause of action. In *Watchtower Bible and Tract Society of New York, Inc., et al. v. Village of Stratton et al.* U.S.S.C (June 17, 2002), the local authorities and State claimed that the Jehovah Witness were equivalent to peddlers of merchandise, subject to prior restraint of municipal permission to speak about the Bible at no cost under a local permit ordinance. The U.S. Court of appeal 6th affirmed that decision. The local government denied the Jehovah witnesses permits and arrest them and through them in jail. The Supreme court of the U.S. ruled in favor of freedom of speech, the lower courts decision was reversed by a vote 8 to 1 in favor of the Jehovah's. The Florida District court of appeals (1st) affirmed the worker's comp Judges erred order. The Supreme court of Florida stricken Petitioner's worker's comp Appeal as unauthorized. That decision is pending in The Supreme court of the U.S. The Petitioner does not need permission from another court to hold the Worker's comp judge accountable for acting in bad faith in Petitioner's civil complaint for punitive damages.

28 CFR CH. 1(7-1-04 edition) ss18.10 Rehearing. (a) "Any appellant dissatisfied with a final agency decision under ss18.9 may, within 30 days after the notice of the final agency decision is sent, request a responsible agency to re-review".....

(b) If the responsible agency official finds that the appellant has:

- (1)Presented evidence or arguments which is sufficiently significant to require the conduct of further proceedings; or
- (2) "Shown some defect in the conduct of the initial hearing sufficient to cause substantial unfairness or erroneous finding....."

The Civil complaint was for punitive damages in pursuant of 2003 Fla. Title XLV Chapter 768; 768.72 under negligence. The Circuit Clerk erred in filing a premature Appeal to the First District Court.of Appeal for the Petitioner. The premature Appeal was dismissed, because the Petitioner never received a Signed order to respond to one the District Court's 3 November 7,2003 orders.

A. There is no "executive immunity" from suit ; Fla. 768.28 and 11th Amendment: "Tort Action Against State Officials". "The immunity of the State from suit has long been held not to extent to action against state officials for damages arising out of willful and negligent disregard of state law."

The Circuit Judge Michael Jones was bias/acted in bad faith, He refused to redress any injury for punitive damages 768.72 in pursuant of 2003 Fla. Title XLV Chapter 768(negligence) and dismissed the OJCC with prejudice (immunity) by Order on February 12,2004.The OJCC judge acted in bad faith therefore he has no immunity in pursuant of 2003 Fla. Title XLV Chapter 768 section 28 or in pursuant of the 11th amendment.

B.In General the agencies (Florida court system)has failed to address the petitioner's civil complaint for punitive damages and demand for trial by jury. The courts have erroneously interpreted a provision of law that is inconsistent with agency rules and procedures or acted in bad faith or supported a conspiracy or Power struggle in the Community and State. Therefore passing upon a

question certified to be of great public importance and to the fairness of a proceeding when agencies fail to follow prescribed procedure based on the ultimate facts

The Circuit Judge Michael Jones refused to follow proper procedure for punitive damages, he would not allow a teir of fact or an evidentiary hearing, he claimed it is not time for evidence at 3 short hearings, then he dismissed all evidence in the record 7 months later after the third hearing. See Lakeside Regent, Inc. v. Cohen, Scherer & Cohn, P.A., 642 So.2nd 148 (Fla.4th DCA 1994). The Assistant State Attorney General Phillip Quaschnick (acted in bad faith) wrote the first two vague orders, that he delayed (2months)and claimed the Petitioner missed the dead line(Strategy).The Petitioner filed an 2nd Appeal and the Worker's comp judge- Assistant State Attorney General Phillip Quaschnick filed a illegal "SLAPP" suit (F.S 2002, 768.295)against the petitioner and a motion interfering with the case after he was dismissed with prejudice (Due process, Amend.14, ss1, note 1022. Inferences.). After 3 hearings equaling 7 month , the circuit judge Jones adopted the Assistant State Attorney General's claims and dismissed all direct evidence it appears to support the power struggle in the community, State and Assistant State Attorney General's defense, to support OJCC David Langham and the other defendants(State agents). See. Fla. Const. Art. I, Section 21.

The Petitioner motioned the Bias circuit judge Jones to remove himself from the case and motioned for [ss15.13] motion to reopen the case (omitted evidence) with the remaining four defendants (Escambia School District, Escambia Charter School , AmStaff, Liberty Mutual) with a new judge. The Escambia circuit judge Jones Dismissed two more Defendants with prejudice and refused /denying the Petitioner's motions. Petitioner removed the case with the above 4 defendants and filed a Federal civil complaint (Aug.19,2004), that the Escambia Federal court judge refused/denied (no summons); the Federal court based all its claims on incorrect information, that the school was a private school. Therefore , the Petitioner

appealed the case to the U.S District court of appeal, 11th circuit , still pending.

The First District court of Appeal made an incorrect claim after the 70th day that the Respondent OJCC David Langham was not dismissed, Its claim was based on a response by the Appellee-Assistant State Attorney General Phillip Quaschnick. The Assistant State Attorney General Phillip Quaschnick made several incorrect claims (responses) that the First District court of Appeal adopted and filed several orders based on the incorrect claims. The Petitioner and the records shows the OJCC was dismissed with Prejudice. The Petitioner countered all the First District court of Appeal's incorrect orders with motions. The First District court of Appeal's rested and filed another incorrect order 5 months later stating that the Petitioner failed to respond to the second order it wrote and dismissed the case. The First District court of Appeal's claim was incorrect so Petitioner appeal the case to the Supreme court of Florida. The First District court of Appeal's denied the appeal. The First district court of appeal and Circuit court judges acted in bad faith and denied the Petitioner a trial by jury that he demanded or failed to address the Petitioner's demand for a trial by jury. There were several concerned ECS x-teachers (witnesses), x- principal that when public to the school board and news papers about problems (the gun incident, Administrators misconduct, like Drinking alcohol on the campus, Harassment, Fraud) at the Escambia Charter school. See Art. I, section 22 Fla. Const. or U.S. const. This instant case is one of three cases (Unemployment, worker's comp, civil complaint) Appealed to The First District court of

Appeal's that has developed from the same incident that injured or physically injured the Petitioner. All The First District court of Appeal's claims were incorrect (evidence proffered), the court merits are based on the incorrect information . The above cases, records were being used as evidence in this case, that the Escambia circuit Judge Jones Dismissed. The DCA fails to address any items in the appeal, so Petitioner appealed the case to the Supreme Court of Florida.

.C. Does the Petitioner have the right to file a writ of certiorari in the Supreme Court of Florida

The Supreme Court of Florida May 4,2005 order has dismissed the instant case (SC05-172) claiming the Petitioner, petition for writ of certiorari can be construed as seeking a writ of mandamus. "The petition for writ of certiorari is dismissed for lack of jurisdiction. See, _Art. V, Sect. 3(b), Fla. Const. To the extent that the petition may be construed as seeking a writ of mandamus, it is dismissed for failure to state a claim upon which mandamus relief may be granted. "WELLS, ANSTEAD ,LEWIS,CANTERO and BELL,JJ., concur. The Petitioner, petitioned for writ of certiorari, this court had the right to review this case. See Fla. Art.V, Section 3 ,(3)May review any of a district court of appeal...state or federal constitution.....directly conflicts with a decision of another district court of appeal or of the supreme court on the same question of law.(4) May review any..(5),(6)This court ,The Florida Supreme Court's May 4,2005 order may be in conflict with This court's April 26,2005 order case SC05-405, the Petitioner Worker's comp Appeal to the U.S Supreme Court, petition for writ of certiorari that This court have collectively been treated as a motion for rehearing, is hereby stricken as unauthorized. It appears, The Florida court system has supported the power struggle in the community and state instead of the Ultimate facts, rules, procedures and acted in bad faith denying the petitioner his civil rights to a trial by jury or a fear hearing or a redress of a grievance and civil rights to due process. The Petitioner's burden of proof was denied, all the evidence was Dismissed,[ss15.17] evidence was proffered to DCA, the evidence/exhibits(records Unemployment, Worker's comp & documents) would of proven the court's claims were incorrect. The Florida Supreme court order can be treated as a refusal to hear this case. Therefore, the Petitioner Appeal's this instant case to the U.S Supreme Court for a petition for writ of certiorari. Pursuant to rule 9.100(a) (b), Michael McWilliams, petitions this court for writ for certiorari to review a judgment denying petitioner's appeal or case, that was a claim for

punitive damage 768.72 and demand for trial by jury and for relief of \$900,000.00 dollars. The Petitions/appellant's shows the district court of Appeal erred or abused discretion by failing to address specifically the allocation of pleadings and persuasion of burden, but simply adopted the Respondent responses or simply relied on: "wisdom and expertise of a trial judge to exercise their gatekeeping authority when assessing whether all, some, or none of the evidence related to the employer.....alternative avenue warrant introduction at trial". 325f.3d,463. There is no cause for leaving Fed. district court thus unguided . Pennsylvania state police v. Suder 325 f.3d 432(2004), vacated and remand. The appellant present genuine issues of material fact concerning Petitioner's/appellant's hostile work environment, constructive discharge claim and misconduct claims that injured (Doctor's reports) or damaged the Petitioner. The Florida court system, violated Petitioner's civil rights, their claims were bias and unconstitutional, they only accepting one parties side of view, the Florida State Attorney General's and his assistants view, that was not based on the Ultimate facts, evidence, testimony, rules, procedure and the constitution. How can three letters from the original defendants be used to justify the defendants canceling the Petitioner's workers comp on Nov. 4,2002, when the court system has refused to let the Petitioner use the same three letters as evidence to defend himself from the courts and defendants incorrect claims. PETITIONER MOTION TO APPEAL THE CASE TO THE U.S SUPREME COURT, PETITION FOR WRIT OF CERTIORARI All evidence proffered.

D. Each agency's exercise of discretion was outside the range of discretion delegated to the agency by law and unconstitutional. All rules and laws of civil procedure, Due process, the first amendment of the United States Constitution and the s.5. Art.1 of the Florida State constitution allow citizen the right to "petition the government for redress of grievances" and defend himself with ultimate facts /evidence (freedom of speech) The

Judges have used their gatekeeping authority outside the range of discretion delegated to the agency by law or acted in bad faith with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property., intentional misconduct ,negligence and denied the Petitioner (injured teacher) a fair hearing or trial by jury

The evidence against the Worker's comp Judge is overwhelming that the court dismissed. The Instant case was about holding the Florida worker's comp Judge accountable for his actions. The JCC Judge David Langham acted in bad faith and used his gatekeeping authority to block, ignore or dismissed the Petitioner/ Appellant /Claimant's critical evidence to defend himself from false claims. The JCC portrayed the Petitioner/ Appellant /Claimant's in a bad light by making a bias statement against the Petitioner: Judge Langham stated in his June 13, 2003 order: "I accept that David Thompson and Mr. Godwin's account of this is the more credible and believable. Claimant's attempt" There was no evidence in the record to support the JCC statements. The record /transcript shows David Thompson (Student) jumped the Petitioner /Appellant from behind without warning. David Thompson testified he was kicked out of school around 100 times for assault and battery and two weapon charge.

Based on the JCC findings, McWilliams injured himself while removing the attacker from his back, the District Court of Appeal First district affirmed the JCC order and the Florida Supreme court dismissed or refused to hear Petitioner appeal . That is a contradiction of the judges opening Statement in his June 13,2003 order. "I accept that David Thompson and Mr. Godwin's account of this is the more credible and believable. Claimant's attempt" The Student attacker claimed I(Petitioner) did not defend himself.

See also Orange County MIS Dept. V Hak, 710 So.2d 998 (Fla. 1st DCA 1998) holding there may be numerous contributing causes leading to an injury but must establish that the employment occurrence is the most preponderant cause of injury. The Petitioner was assault from behind without warning and injured in his 7th period class on the school premises, "Ultimate Fact".

The above facts are an example ,and only apart of the evidence that established a cause of action for punitive damages against the Worker's comp judge David Langham, that was unconstitutionally dismissed by the Florida court system.

VI. CONCLUSION

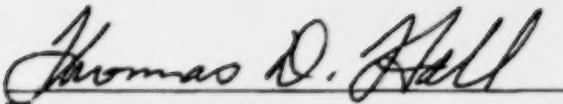
The Petitioner has the civil right to receive a fair hearing or trail by jury for punitive damages. The Escambia circuit judge and District court of appeals, First District and Supreme court of Florida deprive the Petitioner of a trail by jury or fair hearing for punitive damages. The Florida court system also deprive the Petitioner of a fair hearing in a worker's comp case and unemployment case based on the same incident: pre-columbine conditions at a school, Two students attacked teachers and one of those attacks physically injured the Petitioner. The writ will be in aid of rule 20, 28U.S.C 1651 of the court's appellate jurisdiction, that exceptional circumstances warrant the exercise of the Court's discretionary powers, and adequate relief cannot be obtained for punitive damages from the Worker's comp Judge David Langham in any other court to the best of my knowledge. The Workers comp Judge David Langham's misconduct or negligence

deprive the petitioner's of his worker's comp 440.02 (36) benefits, award for compensability, temporary partial disability benefits and future medical treatment, in worker's comp case.

If the U.S Supreme Court review finds the Florida court system was erroneous or has violated or denied or deprived the petitioner's his civil rights (mentioned above) or due process, petitioner motions for direct verdict for relief equal to the original claim or relief limited by the Fla. law \$200,000..

Petitioner submit that the important issues of civil rights, First amendment , 14th amendment, Florida State law and bias gatekeeping authority pleadings raised in this case provide an independent basis for review by this court.

Respectfully submitted,
Michael McWilliams
6662 hetzel Dr.
Milton., Fl 32570


Thomas D. Hall
Clerk, Supreme Court

Supreme Court of Florida

TUESDAY, FEBRUARY 1, 2005

CASE NO.: SC05-172
Lower Tribunal No.: 1D04-719**MICHAEL MCWILLIAMS vs. DAVID W. LANGHAM****Petitioner(s)****Respondent(s)**

Petitioner's "The Appellant Objects to This Court's January 14, 2005, Order Denying the Appellant an Appeal to The Florida Supreme Court in Pursuant of the U.S. First Amendment and s. 5Art. 1 of State Constitution. Therefore, the Appellant will Appeal This Court's Order Denying the Appellant's Above Case to The Supreme; Again," filed in this Court on January 28, 2005, has been treated as a petition for writ of mandamus seeking reinstatement of the proceedings in the district court of appeal below.

Petitioner is allowed to and including February 21, 2005, in which to file a proper petition for writ of mandamus, that complies with Florida Rule of Appellate Procedure 9.100, addressing why the proceedings in the district court of appeal should not have been dismissed.

The failure to file a proper petition with this Court within the time provided could result in the imposition of sanctions, including dismissal of this case. See Fla. R. App. P. 9.410.

A True Copy Test:

av

Served:

HON. JON S. WHEELER, CLERK MICHAEL MCWILLIAMS
PHILLIP P. QUASCHNICK
HON. ERNIE LEE MAGAHA, CLERK



Supreme court of Florida

WEDNESDAY, MAY 4, 2005

CASE NO.: SC05-172
Lower Tribunal No.: 1D04-719MICHAEL MCWILLIAMS vs. DAVID W. LANGHAM,
ETC.

Petitioner(s)

Respondent(s)

The petition for writ of certiorari is dismissed for lack of jurisdiction. See Art. V, Sect. 3(b), Fla. Const. To the extent that the petition may be construed as seeking a writ of mandamus, it is dismissed for failure to state a claim upon which mandamus relief may be granted.

WELLS, ANSTEAD, LEWIS, CANTERO and BELL, JJ.,

Thomas D. Hall
T. Noma D. Hall
Clerk, Supreme Court
concur.



A True Copy Test:

Supreme court of Florida
Office of the Clerk
500 South Duval Street
Tallahassee, Florida 32399

May 25, 2005
Michael McWilliams

6662 Hetzel Drive
Milton, Florida 32570

Re: Michael McWilliams vs. David W. Langham, etc.
Case No. SCO5-172

Dear Mr. McWilliams:

In response to your pleading entitled "Objects to this Court's 05/04/05, Order; the Petition for Writ of Certiorari is Dismissed for Lack of Jurisdiction; Petitioner Motion to Appeal the Case to the U.S. Supreme Court" filed with this Court on May 15, 2005, please be advised that the United States Supreme Court is the appropriate Court to review a decision of this Court. You may petition for a writ of certiorari.

Enclosed is a sample packet to assist you in filing your petition.

Thomas D. Hall, clerk

Most cordially,

A handwritten signature in black ink, appearing to read "Thomas D. Hall".

5b

**DISTRICT COURT OF APPEAL, FIRST DISTRICT
Tallahassee, Florida 32399-1850
Telephone No. (850) 488-6151
May 25, 2004**

CASE NO.: 1004-719 L.T. No. : 2003 CA 001909

Michael Mcwilliams v. Worker's Comp. David W. Langham

Appellant / Petitioner(s), **ApPellee / Respondent(s)**

. BY ORDER OF THE COURT:

Appellant's motion filed May 6, 2004, seeking leave to file an initial brief which exceeds the page limit, is denied.

An amended initial brief, not to exceed 50 pages, shall be served within 20 days of date of this order. The amended initial brief shall cite to the record on appeal for statements of fact.

Williams v. Winn-Dixie Stores, 548 So. 2d 829 (Fla. 1st DCA 1989). References to factual matters outside the record on appeal shall be omitted from the amended initial brief. Thomber v. City of Fort Walton Beach, 534 So. 2d 754 (Fla. 1st DCA 1988).

Failure to timely comply with this order may result in dismissal of this appeal without further opportunity to be heard. Fla. R. App. P. 9.410.

I HEREBY CERTIFY that the foregoing is (a true copy of)
the original court order. Served:

Michael McWilliams **Phillip Quaschnick, A.A.G.**

DISTRICT COURT OF APPEAL, FIRST DISTRICT
Tallahassee, Florida 32399-1850
Telephone No. (850) 488-6151
April 8, 2004

CASE NO.: 1D04-719 L.T. No. : 2003 CA 001909

Michael Mcwilliams v. Worker's Comp. David W. Langham

Appellant / Petitioner(s). Appellee / Respondent(s).

BY ORDER OF THE COURT:

Appellant's motion filed March 31, 2004, is granted in part and time for service of the index to the record is extended to 30 days from the date of this order. Appellant's motion is otherwise denied.

I HEREBY CERTIFY that the foregoing is (a true copy of) the

original court order. Served:

Michael Mcwilliams Phillip P. Quaschnick, A.A.G.

Hon. Ernie Lee Magaha, Clerk am

J. S. Wheeler
JOE S. WHEELER, CLERK



DISTRICT COURT OF APPEAL, FIRST DISTRICT
Tallahassee, Florida 32399-1850
Telephone No. (850) 488-6151

August 10, 2004

CASE NO.: 1D04-719 L.T.

No. : 2003 CA 001909

Michael Mcwilliams v. Worker's Comp. David W. Langham

Appellant / Petitioner(s),

Appellee / Respondent(s).

BY ORDER OF THE COURT:

The appellant has filed a motion titled "Appellant's Motion to Object to the District Court of Appeal's June 16, 2004 Order. This Court Does Not Have the Jurisdiction to Change the Events in the Lower Tribunal and Deny the Appellant's Appeal of the L.T. Original Feb. Order. This Court Findings are Incorrect, the Appellant did not Respond to a Defect and the Appellant Objected to the L. T. Amended Feb, 4 Order Filed on May 10, 2004," which was filed with the Court on June 25, 2004. In this motion, the appellant appears to seek clarification and/or rehearing of this Court's June 16, 2004, order. To the extent that this motion seeks clarification, the motion is hereby GRANTED, for all other purposes the motion is DENIED.

In the Court's order of June 16, 2004, the Court allowed this appeal to proceed from the final order entered in this case on May 10, 2004, because a "premature notice of appeal shall be considered effective to vest jurisdiction in the court to review the final order." See Fla. R. App. P. 9.110(1). The order originally entered on February 12, 2004, is an interlocutory order which "is a part of the record for review on appeal and becomes an aspect of our appellate consideration of the final judgment." Auto Owners Ins. Co. v. Hillsborough County Aviation Authority, 153 So. 2d 722, 724 (Fla. 1963).

See also Fla. R. App. P. 9.110(h). Therefore, the February 12, 2004, order is subject to review in this appeal.

I HEREBY CERTIFY that the foregoing is (a true copy
of) the original court order. Served:

Michael Mcwilliams

DISTRICT COURT OF APPEAL, FIRST DISTRICT
Tallahassee, Florida 32399-1850
Telephone No. (850) 488-6151

February 24, 2004

CASE NO.: 1D03-4784 L.T. No. : 2003 CA 001909

Michael McWilliams v. Escambia Charter School Amstaff, Et Al.

Appellant / Petitioner(s), _____ Appellee / Respondent(s) _____

BY ORDER OF THE COURT:

Appellant's motion to reverse dismissal order and response to the court's order of January 26, 2004, are collectively treated as a motion to reinstate the appeal, and are denied. In the event the lower tribunal has now entered an appealable order in the proceedings below, appellant may seek review of any such order by filing a timely notice of appeal directed thereto.

I HEREBY CERTIFY that the foregoing is (a true copy of) the original court order.

Served:

Michael Mcwilliams
Michael A. Perkins
Phillip Quaschnick

Francisco M. Negron, Jr.
Larry A. Matthews

DISTRICT COURT OF APPEAL, FIRST DISTRICT
Tallahassee, Florida 32399-1850
Telephone No. (850) 488-6151

December 21, 2004

CASE NO.: 1004-719
L.T. No. : 2003 CA 001909

Michael Mcwilliams v. Worker's Comp. David W. Langham

Appellant / Petitioner(s),

Appellee / Respondent(s).

BY ORDER OF THE COURT:

Not having received a response to this Court's order of May 25, 2004, requiring appellant to serve an amended initial brief, the above-styled cause is hereby dismissed.

I HEREBY CERTIFY that the foregoing is (a true copy of)

the original court order. Served:

Michael Mcwilliams Phillip P. Quaschnick, A.A.G.

Hon. Ernie Lee Magaha, Clerk am


J.W. WHEELER

J.W. WHEELER,
CLERK

DISTRICT COURT OF APPEAL, FIRST DISTRICT
Tallahassee, Florida 32399-1850
Telephone No. (850) 488-6151

June 16, 2004

CASE NO.: 1 D0441

T. No. 2003 CA 00199

Michael McWilliams v. Workers Comp.David W. Langharn

Appellant / Petitioner(s), Appellee / Respondent(s).

BY ORDER OF THE COURT:

Having considered the appellants response to this Court's order of April 30, 2004 as well as the appellee reply and the appellant's reply thereto, the show cause order is hereby discharged Fla. P. App. P. 9.110(1). The order entered May 10, 2004 resolved the jurisdictional defect in the order as originally appealed: This appeal shall proceed from the "Amended Order Granting Defendant Judge David Longhorn's Motion to Dismiss Amended Complaint with Prejudice and Denying Motion for Attorney Fees," filed on May 10, 2004.

HEREBY-CERTIFY that the foregoing is true copy of the original court

J. S. Wheeler
JOHN S. WHEELER, CLERK



DISTRICT COURT OF APPEAL, FIRST DISTRICT
Tallahassee, Florida 32399-1850 Telephone No. (850) 488-6151
April 30, 2004

CASE NO.: 1D04-719 L.T. No. : 2003 CA 001909

Michael Mcwilliams v. Worker's Comp. David W. Langham

Appellant / Petitioner(s),

Appellee / Respondent(s)

BY ORDER OF THE COURT:

Upon the Court's own motion, the appellant shall show cause within ten days from the date of this order why this appeal should not be dismissed because the order being appealed merely grants a motion to dismiss and does not actually dismiss the case. See Fla. R. App. P. 9.110(m); Benton v. Moore, 655 So. 2d 1272, 1273 (Fla. 1st DCA 1995); see also Johnson v. First City Bank of Gainesville, 491 So. 2d 1217 (Fla. 1st DCA 1986). If any pleading or order is referenced in the response, a copy of the document shall be attached to the response. Failure to timely comply with this order may result in the imposition of sanctions, which may include dismissal of the appeal, without further opportunity to be heard. Fla. R. App. P. 9.410.

I HEREBY CERTIFY that the foregoing is (a true copy of) the

J. Wheeler

JOS. WHEELER, CLERK



DISTRICT COURT OF APPEAL, FIRST DISTRICT
Tallahassee, Florida 32399-1850
Telephone No. (850) 488-6151

May 25, 2004

CASE NO.: 11)044'19

L.T. No. : 2003 CA 001909

Michael McWilliams v. Worker's Comp. David W. Langham

Appellant / Petitioner(s),

Appellee / Respondent(s)

BY ORDER OF THE COURT:

Appellant's motion filed May 6, 2004, seeking leave to file an initial brief which exceeds the page limit, is denied.

An amended initial brief, not to exceed 50 pages, shall be served within 20 days of date of this order. The amended initial brief shall cite to the record on appeal for statements of fact. Williams v. Winn-Dixie Stores, 548 So. 2d 829 (Fla. 1st DCA 1989); References to factual matters outside the record on appeal shall be omitted from the amended initial brief.' Thomber v. City of Fort Walton Beach, 534 So. 2d 754 (Fla. 1st DCA 1988).

Failure to timely comply with this order may result in dismissal of this appeal without further opportunity to be heard. Fla. R. App. P. 9.410.

I HEREBY CERTIFY that the foregoing is (a true copy of) the original court order. Served: Mr. Mcwilliams Mr. Quaschnic

Joyce Wheeler

JOYCE WHEELER, CLERK



DISTRICT COURT OF APPEAL, FIRST DISTRICT

Tallahassee, Florida 32399-1850

Telephone No. (850) 488-6151

February 24, 2004

CASE NO.: 1D04-719

L.T. No. : 2003 CA 001909

Michael Mcwilliams v. Worker's Comp. David W. Langham

Appellant / Petitioner(s),

Appellee / Respondent(s).

BY ORDER OF THE COURT:

Appellant has filed a notice of appeal in the lower tribunal without the entry of an order of insolvency or deposit of the statutory filing fee. Accordingly, appellant shall, within 30 days from the date of this order, either file a certified copy of the lower tribunal's order of insolvency for appellate purposes as required by Florida Rule of Appellate Procedure 9.430 or pay to the clerk of this Court the sum of \$250.00 as the appellate filing fee required by the applicable rule of procedure and Section 35.22(3), Florida Statutes (2003). If appellant seeks a waiver of the filing fee on the grounds of indigdncy, appellant shall file a motion and affidavit of indigency with the clerk of the lower tribunal (the court, agency, officer, board, commission or body whose order is to be reviewed) for a determination by the lower tribunal of whether an order of insolvency should be issued

pursuant to Rule 9.430 and Section 57.081(1) or 57.085(2), Florida Statutes (2003), as applicable.

This appeal shall not proceed until the order of insolvency is filed or the fee is paid. If at the end of 30 days appellant has neither paid the fee nor secured an order of indigency, appellant shall show cause within 10 days thereafter why this appeal should not be dismissed. Florida Rule of Appellate Procedure 9.410.

I HEREBY CERTIFY that the foregoing is (a true copy
of) the original court order. Served:
Michael Mcwilliams Phillip P. Quaschnick, A.A.G.
Hon. Ernie Lee Magaha, Clerk

Joyce Wheeler
JOYCE WHEELER, CLERK



**DISTRICT COURT OF APPEAL, FIRST DISTRICT
Tallahassee, Florida 32399-1850
Telephone No. (850) 488-6151**

November 7, 2003

CASE NO.: 1D03-4784 L.T. No. : 2003 CA 001909

Michael Mcwilliams v .Escambia Charter School, Et Al.

Appellant / Petitioner(s), Appellee / Respondent(s).

BY ORDER OF THE COURT:

Upon the Court's own motion, pursuant to Florida Rules of Appellate Procedure 9.110(d) and/or 9.130(c), appellant is directed to file within 10 days from the date of this order conformed copies of the order(s) of the lower tribunal from which the appeal is being taken, together with any order entered on a timely motion postponing rendition of the order(s) appealed. The appellant shall also file a copy of the motion that postpones rendition. The copy of the motion shall include the original dated certificate of service. The conformed copies shall be filed by the appellant with a notice of filing which contains a certificate of service reflecting service on all counsel or parties in the case. Florida Rule of Appellate Procedure 9.420(c). The failure of appellant to timely comply with this order could result in the imposition of sanctions, including dismissal of the appeal/petition without further opportunity to be heard. Florida Rule of Appellate Procedure 9.410.

I HEREBY CERTIFY that the foregoing is (a true copy of) the original court order.

Joy S. Wheeler
JOY S. WHEELER, CLERK

DISTRICT COURT OF APPEAL, FIRST DISTRICT
Tallahassee, Florida 32399-1850
Telephone No. (850) 488-6151

November 7, 2003

CASE NO.: 1D03-4784 L.T. No. : 2003 CA 001909

Michael Mcwilliams v.Escambia Charter School Et Al.

Appellant / Petitioner(s), Appellee / Respondent(s).

BY ORDER OF THE COURT:

Appellant has filed a notice of appeal in the lower tribunal without the entry of an order of insolvency or deposit of the statutory filing fee. Accordingly, appellant shall, within 30 days from the date of this order, either file a certified copy of the lower tribunal's order of insolvency for appellate purposes as required by Florida Rule of Appellate Procedure 9.430 or pay to the clerk of this Court the sum of \$250.00 as the appellate filing fee required by the applicable rule of procedure and Section 35.22(3), Florida Statutes (2002). If appellant seeks a waiver of the filing fee on the grounds of indigency, appellant shall file a motion and affidavit of indigency with the clerk of the lower tribunal (the court, agency,

officer, board, commission or body whose order is to be reviewed) for a determination by the lower tribunal of whether an order of insolvency should be issued pursuant to Rule 9.430 and Section 57.081(1) or 57.085(2), Florida Statutes (2002), as applicable.

This appeal shall not proceed until the order of insolvency is filed or the fee is paid. If at the end of 30 days appellant has neither paid the fee nor secured an order of indigency, appellant shall show cause within 10 days thereafter why this appeal should not be dismissed. Florida Rule of Appellate Procedure 9.410.

I HEREBY CERTIFY that the foregoing is (a true copy of)

the original court order. Served:

Joyce Wheeler

JOYCE WHEELER, CLERK

DISTRICT COURT OF APPEAL, FIRST DISTRICT
Tallahassee, Florida 32399-1850
Telephone No. (850) 488-6151
November 7, 2003

CASE NO.: 1D03-4784 L.T. No.: 2003 CA 001909

Michael Mcwilliam v. Escambia Charter School Amstaff, Et Al.

Appellant / Petitioner(s), Appellee / Respondent(s).

BY ORDER OF THE COURT.

Upon the Court's own motion, appellant is directed to file, within 10 days from the date of this order, an amended notice of appeal which states the date of rendition of the order to be reviewed. A copy of Florida Rule of Appellate Procedure 9.020(h), which defines "rendition," and a sample form of an amended notice of appeal are attached to appellant's copy of this order. The amended notice of appeal shall be filed with this Court, and not the lower tribunal. The failure of appellant to timely comply with this order could result in the imposition of sanctions, including dismissal of the appeal without further opportunity to be heard. Florida Rule of Appellate Procedure 9.410.

I HEREBY CERTIFY that the foregoing is (a true copy of) the

original court order. Served: Mr. McWilliams , Mr. Perkin
Francisco M. Negron, Jr. Phillip Quaschnick

Jon S. Wheeler

JOHN S. WHEELER, CLERK

IN THE CIRCUIT COURT OF THE FIRST JUDICIAL
CIRCUIT IN AND FOR ESCAMBIA COUNTY, FLORIDA

MICHAEL MCWilliams Plaintiff,

v.

Case No.: 2003-CA-001909

ESCAMBIA CHARTER SCHOOL,
AMSTAFF, LIBERTY MUTUAL, ESCAMBIA COUNTY
SCHOOL DISTRICT, AND WORKER'S COMPENSATION
JUDGE DAVID W. LANGHAM

Defendants.

**ORDER GRANTING DEFENDANT JUDGE DAVID
LANGHAM'S MOTION TO DISMISS AMENDED
COMPLAINT WITH PREJUDICE AND DENYING MOTION
FOR ATTORNEY FEES**

THIS MATTER is before the Court on Defendant, Judge David Langham's, Motion to Dismiss Plaintiffs Amended Complaint and Motion for Attorney Fees. After conducting a hearing where all parties were heard, and upon review of the court file, it is:

ORDERED AND ADJUDGED that the Motion To Dismiss is GRANTED WITH PREJUDICE. Defendant's Motion for Attorney Fees is DENIED. DONE AND ORDERED in Chambers this day of _____, 2004.

honorable T. Michael Jones, Circuit Judge

IN THE CIRCUIT COURT OF THE FIRST
JUDICIAL CIRCUIT
IN AND FOR ESCAMBIA COUNTY, FLORIDA

MICHAEL MCWILLIAMS, Plaintiff,

v.

ESCAMBIA CHARTER SCHOOL,
AMSTAFF, LIBERTY MUTUAL, ESCAMBIA
COUNTY SCHOOL DISTRICT, AND WORKER'S
COMPENSATION JUDGE DAVID W.
LANGHAM

10 AD 14

Defendants.

AMENDED ORDER GRANTING DEFENDANT JUDGE DAVID
LANGHAM'S MOTION TO DISMISS AMENDED COMPLAINT
WITH PREJUDICE AND DENYING MOTION
FOR ATTORNEY FEES

THIS MATTER is before the Court on Defendant, Judge

David Langham's, Motion to Dismiss Plaintiff's Amended
Complaint and Motion for Attorney Fees. After conducting a
hearing where all parties were heard, and upon review of the
court file, it is:

ORDERED AND ADJUDGED that the Motion To
Dismiss is GRANTED WITH PREJUDICE, and Plaintiff's
Amended Complaint as to Defendant Judge Langham is
DISMISSED. Defendant's Motion for Attorney Fees is
DENIED. DONE AND ORDERED in Chambers this 10th

IN THE CIRCUIT COURT OF THE FIRST JUDICIAL
CIRCUIT OF FLORIDA, L\ AND FOR ESCAMBIA
COUNTY, FLORIDA

MICHAEL McWILLIAMS, Plaintiff,

vs. Case No. 2003 CA 001909 Division: J
ESCAMBIA CHARTER SCHOOL,
AMSTAFF, LIBERTY MUTUAL,
ESCAMBIA COUNTY SCHOOL DISTRICT, AND
WORKER'S COMP JUDGE DAVID W. LANGHAM,

Defendants.

ORDER ON DEFENDANTS' MOTION TO DISMISS
AMENDED COMPLAINT

This matter having been before the court on the Motions to Dismiss filed by Defendants, Amstaff Human Resources, Inc. I ("AmStaff"), Escambia County Charter School ("Escambia Charter"), Liberty Mutual Insurance Company ("Liberty Mutual"), and Escambia County School District ("School District"), and the court having heard arguments and reviewed submissions from the parties, it is hereby

ORDERED and ADJUDGED, that the Defendants' Motions to Dismiss shall be and are hereby granted upon the following grounds:

The Amended Complaint fails to clearly and specifically outline any actionable claims against AmStaff, Escambia Charter, Liberty Mutual and School District.

2. The Amended Complaint alleges negligence and misconduct in conjunction with AmStaff, Escambia Charter and Liberty Mutual's involvement and actions in the Plaintiff's administrative actions for workers' compensation benefits and unemployment benefits. Both administrative actions are the subject of pending appeals to the First District Court of Appeal. The appellate court, and not this court, is the proper forum for appeal and discussion of all issues relating to or taking place in conjunction with those administrative actions.

3. Due to the fact that Plaintiff has sought administrative relief for his workers' compensation claim and has pending an appeal of the order issued by the workers' compensation court, Plaintiff has elected his remedies in workers' compensation. Therefore, any consideration of the liability of the employers, AmStaff and Escambia Charter, for negligence or intentional misconduct relating to injuries claimed by Plaintiff is at this time exclusively within the domain of the workers' compensation statutes, s. 440.10, et seq., Florida Statutes.

The dismissal of Plaintiff's Amended Complaint shall be without prejudice and Plaintiff shall have thirty (30) days from the date of this order to file a Second Amended Complaint, if appropriate. Otherwise, the instant cause will be deemed dismissed with prejudice as to any current Defendant not named in a Second Amended Complaint.

Should Plaintiff choose to file a Second Amended Complaint, Plaintiff must outline his causes of action against any Defendants named therein in a clear and succinct manner. Plaintiff is expressly admonished to refrain from filing or including in that complaint or any other document filed with this court, allegations that are irrelevant, impertinent, without legal basis, or excluded by the rulings outlined in this order.

Done and Ordered in Chambers in Pensacola, Escambia County, Florida
this day of, 2004.
SI MICHAEL JONES

Michael Jones, Circuit Court Judge

IN THE CIRCUIT COURT OF THE FIRST JUDICIAL
CIRCUIT
IN AND FOR ESCAMBIA COUNTY, FLORIDA

MICHAEL MCWILLIAMS, Plaintiff,

v. Case No.: 2003-CA-001909

ESCAMBIA CHARTER SCHOOL,
AMSTAFF, LIBERTY MUTUAL, ESCAMBIA COUNTY
SCHOOL DISTRICT, AND WORKER'S COMPENSATION
JUDGE DAVID W. LANGHAM

Defendants.

/

MOTION FOR SANCTIONS

COMES NOW Defendant Judge David Langham, and files this Motion For Sanctions against Plaintiff, pursuant to Section 57.105, Florida Statutes (2003), for filing an unauthorized and frivolous second amended complaint naming the Defendant; and also filing an untimely and frivoious motion objecting to the Court's order dismissing Plaintiff's first amended complaint with prejudice as to Defendant-Judge

Langham. In support of this motion the Defendant would state as follows:

1. A complete recitation of the facts is stated in the Defendant's motion to strike served on March 10, 2004. In summary on February 26, 2004, Plaintiff filed a second amended complaint, and a motion "To Objected To Parts Of Both Orders From Judge Michael Jones. The Evidence Against The Defendants Supports Plaintiff's Civil Complaint At The Hearing, 768.72 Pleading In Civil Action; Claim For Punitive Damages"

The pleading at issue is entitled as an "amended complaint," but will be referred to as the second amended complaint because Plaintiff had previously filed an amended complaint

2. The second amended complaint was unauthorized as to

Defendant-Judge Langham, because the Court had previously dismissed Plaintiff's first amended complaint with prejudice as to Judge Langham. Moreover the Court informed the Plaintiff that if he disagreed with the order of dismissal Plaintiff should file an appeal.

3. Not only did Plaintiff file an appeal, but he also filed a second amended complaint, which was unauthorized to the extent it named Judge Langham as a defendant.

4. This complaint also merely repeated the same allegations that the Court had twice previously found insufficient to state a cause of action. At the hearing on the motion to dismiss the amended complaint, the Court even warned the Plaintiff that his allegations could be deemed frivolous because Judge Langham had absolute immunity from suit.

Plaintiff's motion objecting to the Court's order dismissing Plaintiff's amended complaint is untimely and frivolous. told the Plaintiff that evidence cannot be considered during the pleading stage of the case.

Section 57.105(1), Florida Statutes (2003), provides that a court "shall" award a reasonable attorney's fee to the prevailing party for any claim or defense the losing party, knew or should have known, "(a) Was not supported by the material facts necessary to establish the claim or defense; or (b) Would not be supported by the application of then-existing law to those facts." In Biermann v. Cook, 619 So.2d 1029 (Fla. 1993), the appellate court imposed sanctions in the form of attorney fees, pursuant to Section 57.105 against a pro se litigant for filing a frivolous appeal and related unauthorized motions. The court stated: While pro se litigants may be given a certain amount of latitude in their proceedings, they may not proceed in such a fashion as to abuse the judicial process, prejudicing the opposing party's interests as well as other litigants' access to the judicial system.

Id. at 1031.

'Because the Court had dismissed Plaintiff's first amended complaint without prejudice, with leave to amend, as to the remaining defendants, the second amended complaint

appropriately named these defendants.

5. Here both the second amended complaint and the motion objecting to the Court's prior order dismissing Plaintiff's first amended complaint with prejudice, as they relate to Judge Langham, are frivolous and meet the criteria for an assessment of attorney's fees under Section 57.105. Such an award is particularly warranted in this case where the Defendant has absolute immunity from suit, not just liability. The Defendant should not have to keep responding to frivolous amended complaints and motions filed after Plaintiff knew or should have known of Defendant's immunity.

6. Defendant has incurred costs in the form of attorney's fees in the amount of \$2,250.00 as reflected in the attached affidavits in order to respond to Plaintiff's

frivolous filings.

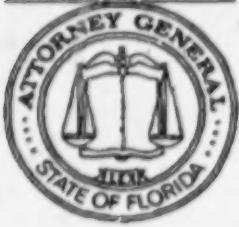
7. As required by Section 57.105(4), Plaintiff was served with this motion 21 days prior

to its being filed with the Court.

WHEREFORE, Defendant-Judge David Langham, respectfully requests to award Defendant attorney's fees in the amount of \$2,250.00.

Respectfully submitted,

CHARLES J. CRIST, JR. ATTORNEY
GENERAL



OFFICE OF THE ATTORNEY
GENERAL THE CAPITOL

TALLAHASSEE, FLORIDA 32399-1050

Reply to:

Office of the Attorney General
CHARLIE CRIST

State Programs Civil Division
Attorney General(850)414-3300; SunCom 994-3300
State of Florida

February 4, 2004

The Honorable T. Michael Jones First Judicial Circuit
M.C. Blanchard Judicial Building 190 Governmental Center
Pensacola, Florida 32501

Re: Michael McWilliams v. Escambia Charter School,
Arnstaff, Liberty Mutual, Escambia County School
District, and Worker's Compensation Judge David W.
Langham, Case No. :2003-CA-001909

Sincerely,

Dear Judge Jones:

Enclosed is a proposed order, with sufficient copies for all parties, granting Judge Langham's motion to dismiss with prejudice. Mr. McWilliams objects to the portions of the order stating that you reviewed the file and allowed him to argue the motion. However it was obvious that you had reviewed the file before the hearing in which Mr. McWilliams was given ample

opportunity to argue the motion. Therefore the proposed order was not changed to accommodate Mr. McWilliams objections.

PhP. Quaschnick Assistant Attorney General Office of the Attorney General PL-01, The Capitol

Tallahassee, Florida 32399-1050

Tel. No.: (850) 414-3671 Fax No.: (850) 488-4872

E-mail: phillip_quaschnick@oag.state.fl.us

Enclosure

cc:

Michael McWilliams w/enclosures Larry A. Matthews, Esquire

Michael A. Perkins, Esquire

Francisco M. Negron, Jr., Esquire

FUSERS\STATE\PhllipCases ,McWillian Lener Judge Jones February
04 04-wpd

IN THE CIRCUIT COURT OF THE FIRST JUDICIAL
CIRCUIT
IN AND FOR ESCAMBIA COUNTY, FLORIDA

MICHAEL McWILLIAMS, Plaintiff,

v.

Case No.: 2003-CA-001909

ESCAMBIA CHARTER SCHOOL,
AMSTAFF, LIBERTY MUTUAL, ESCAMBIA COUNTY
SCHOOL DISTRICT, AND WORKER'S COMPENSATION
JUDGE DAVID W. LANGHAM
Defendants.

JOINT STIPULATION BETWEEN PLAINTIFF
AND DEFENDANT JUDGE DAVID W. LANGHAM
Plaintiff Michael McWilliams and Defendant Judge

David W. Langham jointly stipulate to the following:

In the "Plaintiff's, Amended Complaint", which was filed on March 3, 2004, the plaintiff's inclusion of Judge Langham's name in the caption, and the reference to Judge Langham in the first paragraph as a "defendant" was inadvertent. Plaintiff was not intending to assert a cause of action against Judge Langham since the court had already dismissed with prejudice Judge Langham as a defendant in an order dated February 12, 2004.

MICHAEL MCWILLIAMS
6662 Hetzel Drive

Albert J. Bowden, III
Assistant Attorney General

DISTRICT COURT OF APPEAL, FIRST
DISTRICT

CASE NO.: 1D04-719 L.T. No. : 2003 CA 001909

Michael Mcwilliams v. Worker's Comp. David Langham

Appellant / Petitioner(s). Appellee /

Respondent(s).

APPELLEE'S RESPONSE TO
APPELLANT'S "MOTION'S TO HAVE A
DISTRICT COURT OF APPEAL'S JUDGE
REVIEW THIS COURTS 4/30/04 ORDER
AND THE APPELLANT'S 5/7/04
RESPONSE BELOW TO CLARIFY THIS
COURT'S FINDINGS THAT ARE
INCOMPLETE OR INCORRECT OR THE
DISTRICT COURT FAILED TO MAKE
FINDINGS SUPPORTED BY THE BY THE
RECORD AS SET FORTH IN THE
APPEAL FILED BY THE APPELLANT"

Appellee, Judge David Langham
responds to the above-styled motion filed by
pro se Appellant Michael McWilliams

S. WHEELER, CLERK Appellant
It appears to be objecting to this Court's order
of April 30, 2004, in which Appellant was

2.Appellant claiming that the May 3, 2004, letter and attached proposed order from undersigned counsel to the trial court somehow has impeded Appellant' appeal. Appellant is in error.

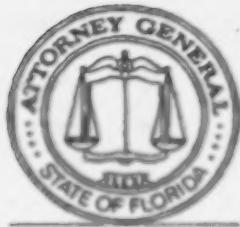
Appellant has attached the wrong proposed order to the instant motion. That order was initially signed by the trial judged, and merely granted the Defendant-Appellee's motion to dismiss with prejudice. To clarify the trial court's intent, and in light of this Court's show cause order, an amended proposed order that not only granted the Defendant-Appellee's motion todismiss with prejudice. To clarify this courts intent, and light of this court's show cuase order,an amended proposed order that noy only grants the defendant-appellee's motion to dismissed with prejudice,but also dismissed the complaint as to the Appellee,was sent with the May 3,2004,cover letter attached to the instant motion. In other

3. The correct amended proposed order was signed by the trial court judge on May 10, 2004. A true and correct copy is attached. This order is a final appealable order. Consequently appellant can now proceed with the appeal

Wherefore, Appellee respectfully requests the court to deny the instant motion.

Respectfully submitted

Charlie J. Crist Jr.



OFFICE OF THE
ATTORNEY GENERAL
THE CAPITOL
TALLAHASSEE, FLORIDA

32399-1050

Reply to:

Office of the Attorney General
CHARLIE CRIST

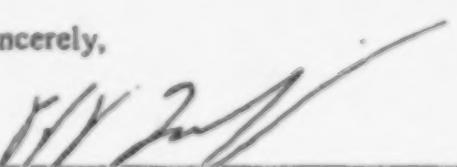
State Programs Civil Division
Attorney General(850)414-3300; SunCom
994-3300

State

of
Flori
da

Sincerely,

March


18,2004

Mr. Michael McWilliams
6662 Hetzel Drive Pensacola, Florida
32501

Dear Mr McWilliams,

Enclosed is a Motion for
Sanctions which is self
explanatory. This motion has

not been filed with the Court.
Florida Statue § 57.105 (4)
requires that I serve you with
this motion 21 days before I
can file it with the Court.



Sincerely
Assistant Attorney General Office of the
Attorney General
P1-01, The Capitol
Tallahassee, Fl. 32399-1050 Tel. No. (850)
414-3300
Fax No. (850)488-4872
Enclosure The Honorable Harry Hooper
III The Honorable David Langham

